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Action

Classification

Control: 8346

Rec'd: JULY 13, 1959
6:49 PM

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Info

FROM: BERLIN

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TO: Secretary of State

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NO: 64, JULY 13, 9 PM (SECTION ONE OF TWO)

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PRIORITY

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SENT DEPARTMENT 64, BONN 61, GENEVA PRIORITY 9, REPEATED INFORMATION LONDON, PARIS, MOSCOW UNNUMBERED.

GENEVA FOR USDEL.

OFFICE OF GOVERNING MAYOR DISTRIBUTED TODAY IN CONFIDENCE TO LIAISON OFFICERS OF THREE ALLIES TEXT OF SHORT LETTER WITH LENGTHY ATTACHED MEMORANDUM ADDRESSED PAST WEEK END BY MAYOR TO FONMIN VON BRENTANO. SUMMARY TRANSLATIONS FOLLOW:

LETTER: LETTER STATES THAT ENCLOSURE CONTAINS SENAT'S POSITION ON WESTERN PROPOSALS OF JUNE 16 AND OBSERVATIONS ON RELATIONSHIP OF BERLIN TO FEDREP. VON BRENTANO REQUESTED TO FORWARD MEMORANDUM TO WESTERN DELEGATION AS OPINION OF BERLIN SENAT, IN CASE THERE NO OBJECTIONS TO FORMULATION (FASSUNG).

ENCLOSURE:

(1) POSITION ON WESTERN PROPOSALS OF 16 JUNE: SENAT IS OF OPINION THAT NO PROPOSAL SHOULD BE SUBMITTED TO SOVS WHICH LIMIT FREEDOM OF WEST BERLIN POPULATION TO DETERMINE ITS OWN FORM OF GOVERNMENT, ATTACHMENT TO FREE GERMANY, OR SOCIAL AND ECONOMIC LIFE. WESTERN PROPOSALS REPRESENT OUTER LIMITS OF WHAT CAN BE REGARDED AS BEARABLE. ANY YEILDING TO SOV PRESSURE FOR FURTHER CONCESSIONS BY WEST WOULD GO BEYOND LIMITS. WEST IS NOW FIGHTING IN BERLIN QUESTION WITH BACK TO WALL. A BERLIN DEPUTY HAS EVEN USED EXPRESSION THAT WE ARE FIGHTING WITH BACK TO PRECIPICE. SITUATION NOT ONLY PROHIBITS ANY FURTHER YEILDING BUT DEMANDS SHARP CLARIFICATION CERTAIN PASSAGES OF WESTERN PROPOSALS

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NND 877418

By

BG

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-2- 64, JULY 13, 9 PM (SECTION ONE OF TWO), FROM BERLIN

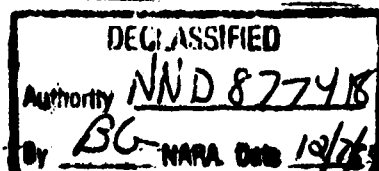
WHEN FURTHER CONSIDERED IN SECOND PHASE FONMIN CONFERENCE.
SPECIFICALLY:

A. FIXING STRENGTH OF TROOPS STATIONED IN WEST BERLIN: SENAT IS GRATIFIED THAT WESTERN JUNE 16 FORMULATION CONTAINS NO BINDING OBLIGATION TO LIMIT OR REDUCE TROOP STRENGTH IN BERLIN BUT THAT WEST POWERS ALONE DECIDE ON THIS. PROTECTIVE CHARACTER OF TROOPS REQUIRES A NUMBER HAVING MORE THAN "SYMBOLIC" MEANING. IN JUDGING THIS POINT SENAT ASSUMES THAT CHOSEN FORMULATION EXCLUDES A TREATY UNDERTAKING CONCERNING TROOP STRENGTH IN WEST BERLIN AND CONTROL OVER TROOP STRENGTH BY SOVS IN ANY FORM. SENAT SEES NO RPT NO OBJECTION TO ENTERING TREATY OBLIGATION ON QUESTION OF EQUIPPING BERLIN OCCUPATION TROOPS WITH CONVENTIONAL WEAPONS ONLY.

B. PREVENTION OF CERTAIN ACTIVITY BOTH PARTS BERLIN: HARD TO IMAGINE HOW MEASURES IMPLEMENTING POINT 2 OF JUNE 16 PROPOSALS COULD BE COMPATIBLE WITH BASIC RIGHTS AND BASIC FREEDOMS. SAME CONCEPTION OF BASIC RIGHTS AND BASIC FREEDOMS WOULD HAVE TO BE APPLIED IN BOTH PARTS BERLIN IN ORDER JUDGE WHAT ENDS OF ACTIVITY IN FUTURE SHOULD BE ALLOWED OR PREVENTED. VERY DIFFICULT TO FIND COMMON STANDARD OF WHAT DISTURBS PUBLIC ORDER BOTH PARTS BERLIN, WHAT SERIOUSLY AFFECTS RIGHTS AND INTEREST OF OTHERS, OR WHAT AMOUNTS TO INTERFERENCE IN INTERNAL AFFAIRS OF OTHERS. MEASURES TO ELIMINATE SUCH ACTIVITIES MUST, AS WESTERN PROPOSAL MAKES CLEAR, BE BASED ON PRINCIPLE OF RECIPROCITY. THAT MEANS: (A) EACH SIDE WILL BE OBLIGATED IN THAT PART OF BERLIN UNDER ITS JURISDICTION TO FORBID ACTIVITIES THAT ARE DEFINED AS PUNISHABLE IN BOTH PARTS OF GERMANY AND THAT ARE PUNISHED IN COMPARABLE MANNER; (B) OBLIGATION OF ONE SIDE TO TAKE REPRESSIVE MEASURES PRESUMES THAT THE ACTIONS TO BE FORBIDDEN, WHICH ORIGINATE IN ITS PART OF GERMANY AND HAVE EFFECT IN OTHER PART, ARE ALREADY FORBIDDEN IN CORRESPONDING MANNER ALSO IN OTHER PART OF GERMANY, AND THAT GUARANTEE EXISTS THAT THEY WILL BE FORBIDDEN IN FUTURE; (C) TO FACILITATE EXECUTION OF PROPOSED SETTLEMENT IT IS RECOMMENDED THAT DISAGREEMENTS ARISING

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IN CONNECTION WITH APPLICATION OF ABOVE PRINCIPLES BE SUBMITTED FOR ADJUSTMENT TO COMMISSION PROPOSED IN POINT 1A (SIC. SHOULD BE 1-B) OF JUNE 16 PROPOSALS.

POINT 2 OF WEST PROPOSALS IS SO FAR REACHING AND FORMULATED IN SUCH GENERAL TERMS THAT DOUBTS EXIST WHETHER IT COULD BE CARRIED OUT AT ALL. SOVIET UNION AND SO-CALLED DDR COULD EXPLOIT TERMS OF AGREEMENT IN THIS FIELD TO CLAIM THAT FACTUAL CRITICISMS OF CONDITIONS IN SOVZONE, IN SOVIET UNION AND IN OTHER TOTALITARIAN STATES AFFECT RIGHTS OR AMOUNT TO INTERFERENCE. HOW TO ELIMINATE THE CONFLICT, UNDOUBTEDLY EXISTING HERE, WITH THE RIGHT OF FREEDOM OF EXPRESSION MUST STILL BE CLARIFIED. VIRTUALLY INSOLUBLE DIFFICULTIES WILL ARISE IN EXECUTING AGREEMENT. A SUITABLE AGREEMENT COULD NEVER COVER ALL DOUBTFUL AND BORDERLINE QUESTIONS SO THAT THERE WOULD BE SOURCE OF CONTINUAL DIFFERENCES OF OPINION AND CONTROVERSIES.

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TELEGRAM

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Control: 8359

Rec'd: JULY 13, 1959
7:06 PM

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See memo 7/15

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FROM: BERLIN

TO: Secretary of State

NO: 64, JULY 13, 9 PM. (SECTION TWO OF TWO)

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SENT DEPARTMENT 64, BONN 61, GENEVA PRIORITY 2 REPEATED
INFORMATION LONDON, PARIS, MOSCOW UNNUMBERED.

GENEVA FOR USDEL

C. ACCESS TO WEST BERLIN: SENAT HAS OBJECTIONS TO FORMULATION THAT TRAFFIC "CONTINUE TO BE (AUCH WEITERHIN) FREE AND UNRESTRICTED" AND THAT PROCEDURES IN EFFECT IN APRIL 1959 SHALL BE "FURTHER APPLIED (WEITERHIN ANWENDUNG FINDEN)." IN DISCUSSING THIS PROPOSAL WITH SOV DELEGATION WORDS "AUCH WEITERHIN" AND "WEITERHIN" SHOULD BE DELETED SINCE TRAFFIC HAS NOT IN PAST BEEN COMPLETELY FREE AND UNRESTRICTED. QUESTION OF TRAFFIC CONNECTIONS BETWEEN WEST BERLIN AND FEDREP IS NOT ONLY ESPECIALLY DIFFICULT BUT CONCERNS VERY LIFE OF CITY. AGREEMENT ON POINT 1-B SHOULD THEREFORE BE TIGHTENED UP WITH GOAL OF REMOVING GAPS, CLEARING UP POINTS OF DISAGREEMENT, AND FACILITATING ACCESS AS WELL AS GUARANTEEING RIGHT OF ACCESS. IN ORDER NORMALIZE SITUATION TRAFFIC WOULD HAVE TO BE NORMALIZED IN FORM OF AGREEMENT MAKING IT POSSIBLE TO ACCOMMODATE JUSTIFIED INTERESTS OF ALL PARTICIPANTS.

D. ADJUSTMENT OF DISAGREEMENTS BY COMMISSION OF FOUR: PROPOSED FOUR POWER COMMITTEE SHOULD NOT ONLY BE EMPOWERED SETTLE DISAGREEMENTS ON ACCESS QUESTIONS; ONE COULD ALSO EMPOWER IT TO SET UP WORKING PARTIES FOR CERTAIN LIMITED TASKS (E.G. PREPARATION OF TRAFFIC AGREEMENT).

(2) REMARKS ON RELATIONS WEST BERLIN TO FEDREP: IN CASE SOVIET DELEGATION ATTACKS FACT THAT WEST BERLIN BELONGS TO FEDREP, SENAT SUGGESTS ALLIED SIDE GIVE COMPREHENSIVE ANSWER

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ALONG FOLLOWING LINES SETTING FORTH DEVELOPMENT THAT LED TO INTEGRATION WEST BERLIN IN FEDREP.

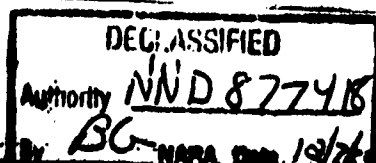
IN 1948 ECONOMIC CONDITIONS IN GERMANY UNBEARABLE AND REQUISITE FOR SURVIVAL WAS CREATION OF NEW CURRENCY. AFTER WESTERN POWERS REALIZED THAT SOVS NOT WILLING TO AGREE TO UNIFIED CURRENCY THEY INTRODUCED DMARK FOR WESTERN ZONE AND SOVS SET UP OWN CURRENCY REFORM, THUS SPLITTING GERMANY INTO TWO ECONOMIC REGIONS. THESE MEASURES MADE SITUATION IN BERLIN PARTICULARLY DIFFICULT. SOV COMMANDANT ATTEMPTED TO FORCE EAST CURRENCY ON GREATER BERLIN. THIS WAS NOTHING MORE THAN AN ATTEMPT TO BRING ALL BERLIN UNDER SOV INFLUENCE. WITH CONSENT OF FREELY ELECTED BERLIN GOVERNMENT, WESTERN POWERS INTRODUCED WEST DMARK ON GROUNDS OF THEIR SUPREME AUTHORITY IN WEST SECTORS. SOVS ATTEMPTED TO BRING WEST SECTORS UNDER THEIR DOMINATION THROUGH BLOCKADE WHICH MET WITH AIRLIFT BY WESTERN POWERS. BY INTRODUCING UNIFIED CURRENCY IN WESTERN ZONES OF GERMANY AND WEST SECTORS OF BERLIN, A UNIFIED CURRENCY AND ECONOMIC REGION WAS CREATED. FROM IT AN ADMINISTRATIVE AND POLITICAL UNITY HAD TO DEVELOP AS A CONSEQUENCE.

IN 1949 FEDREP CREATED WITH PROCLAMATION OF BASIC LAW. BERLIN IS DESIGNATED AS LAND FEDREP IN ARTICLE 23 OF BASIC LAW. ADOPTION OF THIS PROVISION WAS IN ACCORDANCE WITH POLITICAL WILL OF POPULATION OF BERLIN AND ITS CONSTITUTIONAL BODIES WHICH INSISTED ON HAVING AS CLOSE CONNECTION WITH FEDREP AS POSSIBLE.

IN FRAMEWORK OF THEIR SUPREME AUTHORITY THREE WESTERN POWERS MADE ALLOWANCE FOR GERMAN DESIRES FOR CLOSE CONNECTION WEST BERLIN TO FEDREP. WESTERN POWERS, HOWEVER, ACCEPTED THIS PROVISION OF BASIC LAW OF FEDREP AND OF 1950 BERLIN CONSTITUTION WITH RESERVATIONS THAT ARE STILL VALID. BESIDES, THREE WESTERN POWERS EMPHASIZED IN 1954 TREATY WITH FEDREP THEIR RESPONSIBILITY REGARDING RELATIONS WEST BERLIN TO FEDREP. IN BERLIN DECLARATION OF 1955 WESTERN POWERS ESTABLISHED KOMMANDATURA AS SUPREME AUTHORITY.

IN COURSE OF YEARS CONNECTION OF WEST BERLIN TO FEDREP STRENGTHENED WITHOUT PREJUDICE SUPREME AUTHORITY AND

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INCOMING
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CONTROL: 8359
CORRECTION ISSUED 7/15/59 2:30 p.m. SW:DT

-3- 64, July 13, 9 p.m., from Berlin (SECTION TWO OF TWO)
- CORRECTED PAGE 3

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control of Western powers practically all federal laws accepted in West Berlin under a special procedure. West Berlin is represented by FEDREP in International law. Federal offices have been established in West Berlin with consent of Western powers. In contrast to peaceful and orderly integration West Berlin in FEDREP, inclusion of Soviet sector of Berlin into so-called DDR accomplished under other conditions (which memo details).

It is clear in every case that in West Berlin nothing has happened in contradiction supreme authority of three western powers and which could prejudice their rights and responsibilities in Berlin. Process of political and economic integration of West Berlin into free Germany can no longer be made retroactive without deep convulsions in political, social and economic life of Berlin with consequent effects on rest of Germany and on European development. Western powers will surely not lend a hand to this. End summary translations.

Full German text being pouched.

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